

Overview of Montana Corporation License Tax

**Senate Taxation Committee
January 8, 2009**

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Total Corporate Income – Federal Income Tax

	Gross Receipts or Sales
Less:	Cost of Goods Sold
Equals:	Gross Profit

Plus:	Dividends, Interest
	Gross Rent
	Gross Royalties
	Capital Gains
	Supplemental Gains
	Other Income

Equals:	Total Income
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Federal Taxable Income

Total Income

Less:

- Compensation of Officers**
- Wages and Salaries**
- Pension, profit sharing plans, etc.**
- Employee benefit program costs**
- Repairs, maintenance**
- Bad debts**
- Rents and interest paid**
- Taxes and licenses**
- Charitable contributions**
- Depreciation, depletion**
- Advertising and other deductions**

Equals: Federal Taxable Income

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Montana Corporation License Tax – Starting Point

**The starting point for Montana's
Corporation License Tax is:**

Federal Taxable Income (FTI)

**Federal law controls all of the income
and deduction items discussed
previously**

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Montana Additions to FTI

- **Montana corporation license tax included in FTI**
- **Other state, local, foreign and franchise taxes (based on income)**
- **Federal tax exempt (municipal) interest**
- **Contributions used to compute Montana's charitable endowment credit**
- **Other additions (e.g. extraterritorial income exclusion, capital loss carryover)**

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MT Subtractions from FTI

- **IRC "Section 243" dividends received deduction**
- **Nonbusiness income**
- **Montana recycling deduction**
- **Other reductions (e.g. current year capital losses must be deducted in year incurred)**

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Adjusted Federal Taxable Income

Federal Taxable Income

Plus: Montana Additions

Less: Montana Subtractions

Equals: Adjusted Federal Taxable Income

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Apportionment – General Approach

Corporations operating in more than one state must have their income apportioned to each of the states in which they operate.

Montana apportions income of multi-state corporations using the traditional Uniform Division of Income for Tax Purposes Act (UDITPA) equally-weighted, 3-factor apportionment formula.

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Apportionment – General Approach

The UDITPA three factors used to apportion income under this approach are:

- **PROPERTY (Original Cost)**
- **PAYROLL**
- **SALES**

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Apportionment Factor - Example

Example Calculation of Apportionment Factor for Multistate Corporation

Factor	Total	Montana	MT Factor
Property Factor	\$2,500,000,000	\$223,000,000	0.0892
Payroll Factor	\$327,000,000	\$16,000,000	0.0489
Sales Factor	\$1,298,000,000	\$98,000,000	0.0755
Sum of Montana Factors:			0.2136

Apportionment Factor (sum of MT factors divided by 3):

0.0712

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Montana Taxable Income (before Net Operating Losses)

Adjusted Fed Taxable Income

Times: Apportionment Factor

Equals: Apportioned MT Income

**Plus: Income Allocated Directly
to Montana**

**Equals: Montana Taxable Income
(before net operating losses)¹¹**

Net Operating Losses

- **In simple terms, a net operating loss (NOL) is the excess of deductions over gross income in any tax year**
- **Corporations may reduce taxable income in previous or subsequent tax years by carrying forward or carrying backwards net operating losses**
- **Net operating losses may be carried *back* for 3 tax periods**
- **Net operating losses may be carried *forward* for 7 tax periods**

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Montana Taxable Income (After NOLs) and Tax Liability (Before and After Credits)


Montana Taxable Income (Before NOLs)

Less: Net Operating Loss Carryover
Equals: Montana Taxable Income (After NOLs)

Times: 6.75% (7% if "Water's Edge" Corporation)
Equals: Tax Liability Before Credits

Less: Tax Credits
Equals: Tax Liability After Credits

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Tax (Refund) Due at Time of Filing

**Corporations may owe tax or be due a refund
at the time of filing:**

Tax Liability After Credits

Less: Prior Year Overpayments
Tentative Payments
Quarterly Estimated Tax Payments

Equals: Net Tax (Refund) due

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“Unitary” v. “Separate” Reporting

- **States may require corporations to file on either a unitary (combined) or separate reporting basis**
- **Montana is a worldwide, combined unitary state and unitary corporations must apportion income as provided for in 15-31-305, MCA**

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Unitary (Combined) Reporting

Business is unitary when:

- 1) **Operation within the state is dependent upon or contributory to operations outside the state, or**
- 2) **Units of the business within and without the state are closely allied or incapable of separate maintenance**

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Unitary (Combined) Reporting

Unitary requirements ("three-unities" test):

- 1) Unity of ownership (affiliate owned greater than 50%, control established)**
- 2) Unity of operation (economies of scale - centralized staff functions – purchasing, advertising, human resources, etc.); and**
- 3) Unity of use (centralized executive force making decisions regarding strategy and operations, intercompany transfer of products, know-how and expertise)**

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Separate Company Reporting

- Each member of a commonly controlled group computes income and files a return as if it were a separate economic entity**
- Provides opportunities to create legal structure and intercompany transactions to shift income from affiliates in high-tax states to affiliates in low-tax states**

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“Water’s Edge” Corporations

- **Available only to multinational corporations**
- **Allows exclusion of corporations operating almost exclusively outside US (80% rule)**
- **Three-year renewable election**
- **Tax Rate of 7% (rather than 6.75%)**

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Audit Program (RARs)

- **15 Corporation Tax Auditors**
- **Desk Audits (RARs, NOL carry forwards, state adjustments, etc.)**
- **Field Audits (Review filing methods, large nonbusiness deductions, apportionment factors, etc.)**

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